

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF)
SUSSEX COUNTY, DELAWARE FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE) PSC DOCKET NO. 19-0181
AND NECESSITY TO PROVIDE WATER)
SERVICES PURSUANT TO 26 *DEL. C.* § 203C)
(FILED MAY 24, 2019; AMENDED JULY 8, 2019))

ORDER NO. 9435

AND NOW, this 6th day of August 2019, the Delaware Public Service Commission (“Commission”) determines and orders the following:

WHEREAS, on May 24, 2019, Sussex County (the “County”) filed an application (“Application”), pursuant to 26 *Del. C.* § 203(C)(d)(2)a., seeking a Certificate of Public Convenience and Necessity (“CPCN”) to provide water services to the parcels in the Ellendale Water District in Sussex County, Delaware (the “Proposed Service Area”);¹ and

WHEREAS, on July 8, 2019, the County amended the Application to request the CPCN in accordance with 26 *Del. C.* § 203C (e) (1) b.4.; and

WHEREAS, Commission Staff (“Staff”) reviewed the Application to ensure compliance with the statutory provisions of 26 *Del. C.* § 203C and 26 *Del. Admin. C.* § 2002, the Commission’s “Regulations Governing Certificates of Public Convenience and Necessity for Water Utilities” (the “Regulations”); and

WHEREAS, Staff notes that the Application included the following documentation: (1) a copy of evidence that the water in the Proposed Service Area does not meet the drinking water for human consumption standards of the Department of Health and Social Services; specifically, DHSS states that the results from a 2017 random sampling is evidence that the water quality does

¹ See Exhibit “A” attached hereto.

not meet the Safe Drinking Water Act's primary and secondary standards required for human consumption; (2) a copy of the United States Postal Service forms verifying that the County sent, via certified mail, a Commission-approved notice to all landowners of record for each parcel within the Proposed Service Area; (3) a list of the County tax map parcel identification numbers of the properties and identification of all landowners of record included in the Proposed Service Area; and (4) a copy of the associated map clearly marking the Proposed Service Area; and

WHEREAS, on April 16, 2019 in Order No. 9375, the Commission approved a waiver of the newspaper publication notice requirement as set forth in 26 *Del. Admin. C.* § 2002-10.7; and

WHEREAS, Staff's further review revealed that: (1) pursuant to 26 *Del. Admin. C.* § 2002-7.1, for a request premised on 26 *Del. C.* § 203C (d) (2) a., the Proposed Service Area shall encompass only such parcels of land which lack available water sources or supplies that meet the standards governing drinking water for human consumption promulgated and enforced by the Department of Health and Social Services, yet only some of the parcels included in this Application met this criteria; (2) the timing requirements of the landowner notification under 26 *Del. Admin. C.* § 2002-9.2² were not met; and (3) Exhibit B of the Application included a map of the Proposed Service Area as well as a listing of all the parcels and owner information, but the Proposed Service Area was inconsistent with the parcel listing and, when compared to Staff's GIS map, several parcels already were included in Artesian's approved water service territory; and

WHEREAS, in response to Staff's June 20, 2019 Letter, the County amended its Application (the "Amended Application") on July 8, 2019, changing the statutory predicate of its CPCN request from 26 *Del. C.* § 203C(d)(2)a. to 26 *Del. C.* § 203C(e)(1)b.4.; therefore, the Amended Application provided the required information; and

² Under 26 *Del. Admin. C.* § 2002-9.2, the form of notice required by these regulations shall be sent to each landowner of record not more than thirty-five days and not less than thirty days prior to the filing of the Application.

WHEREAS, because the Amended Application was not deemed complete until July 8, 2019, it fell beyond the required time line necessary to file a CPCN Application under 26 *Del. Admin. C.* § 2002-9.2; and

WHEREAS, on July 17, 2019, Artesian Water Company filed three CPCN abandonment applications for parcels located within the Ellendale Water District – PSC Docket Nos. 19-0451, 19-0452, and 19-0453; and

WHEREAS, to determine whether the Commission should deny the requested CPCN as set forth in 26 *Del. C.* § 203C(f), Staff solicited comments from the Delaware Department of Natural Resources and Environmental Control (“DNREC”), the Office of the State Fire Marshal (“SFM”), and the Office of Drinking Water of the Division of Public Health (“ODW”); DNREC, SFM, and ODW responded and confirmed they have no issues relating to the County’s ability to provide safe, adequate, and reliable water services to its existing customers; and

WHEREAS, Staff has completed its review of the Amended Application and finds that it is in compliance with provisions of 26 *Del. C.* § 203C and the Regulations, with the sole exception concerning the requested waiver of the timing requirements in 26 *Del. Admin. C.* § 2002-9.2; and

WHEREAS, Staff has recommended that the Commission grant the County’s requested waiver under 26 *Del. Admin. C.* § 2002-9.2 and approve the County’s Amended Application;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NO FEWER THAN THREE COMMISSIONERS:**

1. Pursuant to 26 *Del. C.* § 203C, the Commission grants the County a CPCN to provide water services to the Proposed Service Area specifically identified as the parcels listed in Exhibit “A.”

2. The County’s request for a waiver of the notification timing requirements under 26 *Del. Admin. C.* § 2002-9.2 is granted.

3. The County shall comply with any and all federal, state, county, and local statutes, ordinances, orders, regulations, rules, and permit conditions that are applicable, or may become applicable, to any matter involving water utility services provided to the service territory granted under this CPCN.

4. The Commission reserves the jurisdiction and authority to enter such further orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chairman

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary

E X H I B I T "A"

**APPROVED SERVICE AREA
PARCELS WITHIN CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

**SUSSEX COUNTY
ELLENDALE WATER DISTRICT
PSC DOCKET NO. 19-0181**

SUSSEX COUNTY TAX MAP PARCEL NUMBERS

230-26.20-4.00	230-26.16-13.00	230-31.00-89.00
230-26.20-32.00	230-26.16-14.00	230-26.00-126.01
230-31.00-95.00	230-31.00-40.01	230-26.16-18.02
230-31.00-96.00	230-31.00-66.00	230-26.16-18.05
230-31.00-97.00	230-26.20-11.00	230-26.00-37.00
230-31.00-98.00	230-26.00-49.00	230-26.00-37.02
230-31.00-99.00	230-26.20-22.00	230-26.00-37.03
230-31.00-100.00	230-31.00-64.03	230-26.00-37.04
230-31.00-101.00	230-26.00-31.00	230-26.00-37.05
230-31.00-102.00	230-26.16-34.00	230-26.00-50.00
230-31.00-83.00	230-31.00-158.00	230-31.00-82.00
230-26.00-65.00	230-31.00-48.00	230-26.00-55.00
230-26.00-59.00	230-31.00-47.00	230-31.00-159.00
230-26.16-36.00	230-31.00-52.00	230-31.00-174.00
230-26.00-75.09	230-26.16-18.07	230-31.00-174.01
230-26.20-15.00	230-26.16-18.09	230-31.00-103.00
230-26.20-5.00	230-26.16-18.10	230-31.00-104.00
230-26.16-18.01	230-31.00-89.01	230-31.00-105.00
230-31.00-65.00	230-31.00-64.02	230-31.00-106.00
230-26.20-12.00	230-26.16-18.03	230-31.00-107.00
230-31.00-174.02	230-26.20-18.00	230-31.00-108.00
230-31.00-174.03	230-26.20-19.00	230-31.00-112.00
230-26.00-37.01	230-31.00-94.00	230-31.00-113.00
230-26.00-38.00	230-31.00-38.01	230-31.00-114.00
230-26.00-46.00	230-31.00-62.00	230-31.00-115.00
230-26.00-47.00	230-31.00-78.00	230-31.00-116.00

PSC Docket No. 19-0181, Order No. 9434 Cont'd

230-31.00-117.00	230-31.00-111.00	230-26.00-45.00
230-31.00-137.00	230-31.00-128.00	230-26.20-2.00
230-31.00-138.00	230-31.00-129.00	230-26.16-18.06
230-31.00-139.00	230-31.00-130.00	230-26.16-24.00
230-31.00-140.00	230-31.00-131.00	230-26.20-1.00
230-31.00-63.00	230-31.00-132.00	230-31.00-162.00
230-26.00-70.00	230-31.00-133.00	230-31.00-162.01
230-2600-71.00	230-31.00-134.00	230-26.00-48.00
230-26.00-105.00	230-31.00-135.00	230-26.00-75.02
230-31.00-73.00	230-31.00-136.00	230-31.00-70.00
230-31.00-74.00	230-26.00-28.00	230-31.00-70.01
230-31.00-172.00	230-26.00-43.00	230-31.00-156.00
230-31.00-175.01	230-26.00-44.00	230-31.00-157.00
230-31.00-92.00	230-26.00-58.00	230-31.00-54.00
230-31.00-92.01	230-26.16-15.00	230-31.00-55.01
230-31.00-148.01	230-26.16-15.01	230-31.00-123.00
230-31.00-118.00	230-26.16-15.02	230-31.00-124.00
230-31.00-119.00	230-26.16-16.00	230-31.00-125.00
230-31.00-120.00	230-31.00-159.01	230-31.00-126.00
230-31.00-121.00	230-31.00-56.00	230-31.00-153.00
230-31.00-122.00	230-26.16-17.00	230-31.00-163.00
230-31.00-149.00	230-26.16-18.00	230-31.00-164.00
230-31.00-149.01	230-26.20-6.00	230-26.16-32.00
230-31.00-150.00	230-26.20-8.00	230-31.00-155.00
230-31.00-150.01	230-31.00-40.08	230-31.00-47.01
230-31.00-151.00	230-26.16-18.08	230-31.00-76.00
230-31.00-90.00	230-31.00-46.00	230-31.00-169.00
230-26.00-75.04	230-31.00-46.01	230-31.00-86.00
230-31.00-59.00	230-31.00-171.00	230-31.00-87.00
230-31.00-60.00	230-31.00-173.00	230-31.00-88.00
230-31.00-80.02	230-26.20-10.00	230-26.20-9.00
230-26.16-73.00	230-31.00-40.09	230-26.20-7.00
230-26.20-20.00	230-26.16-18.11	230-26.00-75.06
230-31.00-109.00	230-26.00-75.08	230-26.00-135.00
230-31.00-110.00	230-26.16-50.00	230-31.00-58.00

230-26.20-17.00	230-31.00-40.11	230-31.00-64.04
230-31.00-144.00	230-31.00-86.01	230-31.00-68.00
230-31.00-145.00	230-26.00-123.00	230-31.00-72.00
230-31.00-146.00	230-26.00-123.02	230-31.00-75.00
230-26.00-68.00	230-26.00-123.03	230-31.00-77.00
230-26.00-60.00	230-26.00-56.00	230-31.00-79.00
230-31.00-35.00	230-26.00-57.00	230-31.00-93.00
230-31.00-36.00	230-31.00-40.04	230-31.00-161.00
230-31.00-167.00	230-26.16-18.12	230-31.00-40.05
230-31.00-168.00	230-26.00-61.00	230-31.00-40.06
230-31.00-152.00	230-26.00-62.00	230-31.00-40.12
230-31.00-152.01	230-26.16-71.01	230-31.00-67.00
230-26.00-75.01	230-26.16-18.04	230-31.00-69.00
230-26.00-66.00	230-26.16-49.00	230-31.00-160.00
230-26.00-67.00	230-26.16-49.01	230-31.00-40.10
230-26.16-35.00	230-26.20-13.00	230-31.00-42.00
230-26.20-14.00	230-31.00-57.00	230-31.00-45.00
230-31.00-50.00	230-31.00-148.00	230-26.00-75.07
230-31.00-50.01	230-26.00-28.01	230-31.00-43.00
230-31.00-154.00	230-26.20-3.00	230-31.00-142.00
230-26.20-16.00	230-26.20-21.00	230-31.00-143.00
230-31.00-40.03	230-26.16-72.00	230-31.00-41.00
230-31.00-81.00	230-26.00-75.03	230-31.00-40.02
230-31.00-84.00	230-31.00-71.00	230-26.00-126.00
230-31.00-85.00	230-26.00-127.00	230-31.00-147.01
230-26.00-51.00	230-26.00-29.00	230-31.00-147.02
230-31.00-165.00	230-26.00-30.00	230-31.00-147.03
230-31.00-166.00	230-26.00-42.00	230-31.00-44.00
230-31.00-170.00	230-26.00-63.00	230-26.00-75.14
230-26.00-28.02	230-31.00-127.00	230-26.00-75.15
230-26.00-52.00	230-31.00-141.00	
230-26.00-53.00	230-31.00-147.00	
230-26.00-64.00	230-31.00-37.00	
230-26.16-33.00	230-31.00-55.00	
230-26.00-69.00	230-31.00-61.00	